Supreme Court, U. S.
FILED
SEP 5 1979
MICHAEL RODAK, JR., CLERK

No. 78, Original

In the Supreme Court of the United States

OCTOBER TERM, 1978

STATE OF CALIFORNIA, PLAINTIFF

v.

STATE OF ARIZONA AND UNITED STATES OF AMERICA

ANSWER OF THE UNITED STATES TO ARIZONA'S CROSS-CLAIM

WADE H. MCCREE, JR.
Solicitor General
Department of Justice
Washington, D.C. 20530

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The United States, by the Solicitor General, makes answer to the cross-claim filed herein by the State of Arizona, as follows:

FIRST DEFENSE

This cross-claim is barred by limitations, pursuant to 28 U.S.C. 2409a(f), insofar as the claim affects lands lying north of the junction of the Palo Verde Pilot Cut with the Old Palo Verde Lagoon, that junction being described by a line extending west from the auxiliary meander corner of Section 22, T. 1 S., R. 24 W., Gila and Salt River Meridian and a line extending S. 45° 54' E from the same auxiliary meander corner, and lying east or south of the meander line described by a federal survey accepted on August 29, 1961, and noticed at 26 Fed. Reg. 11687 (Dec. 6, 1961).

SECOND DEFENSE

This cross-claim is barred by res judicata and/or the effect of a Declaration of Taking filed December 12, 1973,

order for possession entered December 13, 1973, followed by actual possession, in proceedings in the United States District Court for the Southern District of California, bearing Civil No. 73-530E and entitled *United States* v. *360.09 Acres of Land, more or less, in the County of Imperial, State of California, and A. Willard Dudley, et al.*, insofar as the claim effects lands lying north of a line extending N. 59° 46' 47" W from the northeast corner of lot 5 of Section 23, T. 1 S., R. 24 W., Gila and Salt River Meridian, and east or south of the meander line described by a federal survey accepted on August 29, 1961, and noticed at 26 Fed. Reg. 11687 (Dec. 6, 1961).

THIRD DEFENSE

For answer to the numbered paragraphs of the cross-claim:

1. The United States admits paragraphs I, II, III, IV, and V of the cross-claim.

2. As to paragraph VI of the cross-claim:

(a) The United States denies that the State of Arizona is the owner of the lands lying within a portion of the former bed of the Colorado River as described in Exhibit A to the cross-claim insofar as the lands lie north of the junction of the Palo Verde Pilot Cut and the Old Palo Verde Lagoon, and lie east or south of the meander line described by a federal survey accepted on August 29, 1961, and noticed at 26 Fed. Reg. 11687 (Dec. 6, 1961); and the United States affirmatively alleges that, north of said junction, the United States is the owner of all lands described in Exhibit A which lie east or south of the meander line.

(b) The United States is without knowledge or information sufficient to form a belief as to the truth of

the allegation that the State of Arizona is the owner of the lands lying within a portion of the former bed of the Colorado River as described in Exhibit A to the cross-claim insofar as the lands lie south of the junction of the Palo Verde Pilot Cut and the Old Palo Verde Lagoon; however, the United States disclaims ownership of the said lands described in Exhibit A lying south of the said junction.

3. The United States is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph VII of the cross-claim.

4. The United States admits the allegations contained in paragraph VIII of the cross-claim, except that federal surveys have not been conducted along the entire length of the bed of the Colorado River as described in Exhibit A to the cross-claim; the United States affirmatively alleges that lands lying north of the junction of the Palo Verde Pilot Cut and the Old Palo Verde Lagoon were surveyed by the federal government, which survey was accepted on August 29, 1961, and noticed at 26 Fed. Reg. 11687 (Dec. 6, 1961).

5. The United States denies paragraph IX of the cross-claim.

6. The United States is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph X of the cross-claim.

7. The United States denies each and every allegation of the cross-claim not specifically admitted, denied, or qualified herein.

WHEREFORE, having fully answered, the United States prays this Court to dismiss this cross-claim as to the lands lying north of the junction of the Palo Verde

Pilot Cut and the Old Palo Verde Lagoon insofar as they lie east or south of the meander line hereinabove identified, and to confirm, declare, and establish that the boundary between the lands of the United States and those of the State of Arizona lying south of the said junction is as described in Exhibit A to the cross-claim.

WADE H. MCCREE, JR.
Solicitor General

AUGUST 1979